

1 HONORABLE JAMES L. ROBERT

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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

10 JOHNNY B. DELASHAW, JR.,

11 Plaintiff,

12 v.

13 SEATTLE TIMES COMPANY, and  
14 CHARLES COBBS,

Defendants.

Case No. 18-cv-00537-JLR

DECLARATION OF JOHN LAYMAN

15 I, JOHN LAYMAN, declare as follows:

16 1. I am over age 18 and competent to be a witness. I am making this declaration based  
17 on facts within my own personal knowledge.

18 2. At all times material to this motion, I represented Dr. Rod Oskouian.

19 3. By submitting this declaration, I do not intend to disclose any attorney client  
20 privileged information or work product. My sole intention is to provide the court with the basic  
21 facts giving rise to the 2017 joint defense and common interest agreement between Dr.  
22 Delashaw, Mr. Sabey, and Dr. Oskouian and the context for Dr. Oskouian's privileged  
23 communications with the Harrigan Leyh Farmer & Thomsen LLP law firm and other attorneys.

24 4. Dr. Oskouian was named in a series of articles published by the Seattle Times,  
25 beginning in February 2017. The articles concerned the Swedish Neuroscience Institute (SNI)

1 and the Seattle Science Foundation (SSF) and contained false allegations concerning  
2 Dr. Oskouian in his capacities as the chief of spine surgery at SNI and the Board Chair and  
3 President of SSF.

4         5. As a result of the Times' articles, Dr. Oskouian was under investigation by the  
5 Washington Medical Quality Assurance Commission and was a subject of civil and criminal  
6 investigations by the United States Department of Justice. I consulted with Dr. Oskouian  
7 regarding both of those matters as I maintained an ongoing and longstanding attorney-client  
8 relationship with him as his personal attorney. Dr. Oskouian also had additional counsel, Robert  
9 Mahler, James Fredman, and Adricne McKelvey, in those matters and I consulted with those  
10 attorneys as well as part of my ongoing attorney-client relationship with Dr. Oskouian. In  
11 addition, Dr. Oskouian consulted with me about potentially bringing a defamation lawsuit  
12 against the Seattle Times, in conjunction with Dr. Johnny Delashaw and David Sabey. We  
13 began to work with Art Harrigan and his partner Tyler Farmer, who represented Mr. Sabey and  
14 were consulting with Dr. Delashaw regarding a potential lawsuit against the Times. We also  
15 were working with Amy Magnano, who represented Dr. Delashaw in an ongoing MQAC  
16 licensure proceeding against him that was largely based on the allegations contained in the  
17 Times' articles, as was the MQAC investigation of my client, Dr. Oskouian. In addition, we  
18 were exploring with Mr. Sabey, Dr. Delashaw, and their counsel, legal strategies to prevent the  
19 Times from publication of future false stories involving them. The work included drafting  
20 responses to additional inquiries from Seattle Times reporters. These communications among  
21 the common interest group of Dr. Oskouian, Dr. Delashaw, Mr. Sabey and their attorneys,  
22 including any with Mr. Harrigan's firm and Ms. Magnano's firm, were undertaken pursuant to a  
23 mutual interest in devising means of addressing common factual support and legal strategies with  
24 respect to the ongoing MQAC investigation, DOJ investigation, and potential actions against the  
25 Times. At all relevant times, it was my expectation and that of my client, that all

1 communications involving members of the common interest group and their attorneys would be  
2 privileged and confidential and protected from disclosure by the common interest privilege.

3 6. While Dr. Oskouian did not formally retain Mr. Harrigan's firm through a written  
4 engagement letter, we understood and agreed then that we were working with Mr. Harrigan's  
5 firm on a privileged and confidential basis in order to analyze potential claims against the Seattle  
6 Times and potentially others. We understood that Mr. Harrigan's firm would represent those  
7 participants who ultimately decided to file a lawsuit about the defamatory statements in the  
8 Seattle Times articles.

9 I swear under the penalty of perjury under the laws of the United States that the foregoing  
10 is true and correct.

11 Dated this 7 day of January, 2019.

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14 JOHN LAYMAN  
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on January 7, 2019, I electronically filed the foregoing with the  
3 Clerk of the Court using the CM/ECF system which will send notification of such filing to the  
4 parties registered with the Court's ECF system for the above-captioned case.

5 DATED this 7<sup>th</sup> day of January, 2019

6 HARRIGAN LEYH FARMER & THOMSEN LLP

7 By: s/ Arthur W. Harrigan, Jr.

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14 *Attorneys for Johnny B. Delashaw, Jr.*